A Political CONFERENCE

BETWEEN

AULICUS, a *Courtier*; DEMAS, a *Countryman*; and CIVICUS, a *Citizen*:

Clearing the

ORIGINAL

OF

Civil Government,

THE

POWERS and DUTIES

OF

Soveraigns and Subjects.

IN A

Familiar and Plain Way, which may be understood by every Ordinary Capacity.

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CONFEDERACY

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OF

Sovereign and Subject Co.

Inscribed by every Ordinary Capacity

A Political CONFERENCE

Between

AULICUS, a *Courtier*; DEMAS, a *Country-man*; and CIVICUS, a *Citizen*.

DEMAS.

I Am glad I have so soon found you, *Aulicus*, that we may renew our frequent Converse and Conference concerning those thorny Questions about *Civil Government, Authority and Liberty*, and the *Powers and Duties of Soveraigns and Subjects*, things of the greatest importance, for the outward Peace and Happiness not only of this Common-wealth, but of all others, and generally of Mankind, which are very little known distinctly; for those who write of them, are commonly dependent on Soveraigns, and do still endeavour to heighten Soveraignty, and lessen Liberty, so far as they can find Pretences; others dare not use freedom, lest they should be construed to be seditious, and if it had not been my intimate acquaintance with you, and that I knew you to be a just and vertuous person, I durst not have

adventured with that freedom I have always used in these Matters, yet your Education and Imployment had insensibly bred in you many of these Opinions, which pass'd too current at Court, and whereof your self did not perceive the unsoundness, so that besides your great Abilities, you did ever endeavour to worst me by running to those common Opinions, but now I have seen the Declaration of the P. of O. I have brought it to you for your perusal, which hath a more free and equal strain than any thing I have seen flow from a Prince, acknowledging the Liberty of Subjects, even in a Monarchy, and especially the Liberty of their Consciences, and disowning the Violations of Law, and of the Constitution of a Kingdom, warranting the concourse of interested Neighbours and injured Subjects, to deliver them from those Violations, so strange Language with you, that you must compose your Spirit soberly to hear reasons for them, without making too much use of prepossessing your Judgment; and, that we may shun Heats and Confusions in our reasoning, I propose to you as *Palemon* between us *Civicus*, equally admir'd and lov'd by us both, for his piercing and solid Judgment, and singular Sobriety and Moderation.

AULICUS.] You oblige me exceedingly by your kind Proposal, and I do heartily accept the offer, and therefore let us appoint a time and place, where we may invite *Civicus*, and where we may be free from all interruption, that we may go to the bottom of these Matters, Matters, in which I will no more urge Common Opinion, but will proceed upon such grounds, as being clearly and orderly proposed, will easily be received by all persons of discretion.

The

The Second Conference.

AULICUS.

Demas hath now taken the confidence to admit a Witneſs, to our wonted, but ſecret Reaſonings, concerning Civil Government, and the Power and Duty of Soveraigns and Subjects, being encouraged by the Declaration of the Prince of *Orange*, who is generally acknowledged by all good men, to be eminent in Piety, Prudence, Equality of Temper, and Moderation of Spirit, and indeed he hath almoſt turned the advantage I had formerly over him, of the common opinions of Princes and Courts againſt me. And therefore we have reſolved to uſe ingenuous Freedom, and we could not find a more equal *Palemon* than you *Civicus*, to whom both of us hath ſo great deference, that we can hardly decline you even to be an Umpire between us, for it is very like our Prejudices may have led us both into Extremes.

CIVICUS.] I am exceeding glad of the opportunity of meeting with ſo excellent Friends, in ſo retired a place, prepared to reaſon upon ſuch weighty Matters, as are of the higheſt moment for the World to know, and tho' I be far from the preſumption to over-rule you in any material point, yet I am ready to ſerve you at leaſt in the form of your reaſoning.

DEMAS.] I have been the firſt mover of this Conference, and ſhall preſume to begin, becauſe I am for Liberty, which is the Native Right of all Mankind, and I do not ſee how Men may lawfully loſe it by their own conſent, but that as a Fountain doth ever throw out all

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that can be caſt into it, ſo Liberty being the Fountain, Right may do the ſame, in which I am confirm'd by the words of the Apoſtle St. *Paul*, who tho' he doth not condemn ſlavery, yet allows the ſlave rather to uſe liberty; ſo that he approves only ſlavery where the ſlave cannot help himſelf; and it is the common opinion of all knowing men, that all men are born free: but it is yet far more unqueſtionable, that liberty ought not to be reſtricted, but where reſtraint is evidently known to be from God, or from the conſent of the Party, for his own intereſt: ſo he that cannot govern and provide for himſelf, may warrantably and prudently betake himſelf to a Maſter, and give him Power of all the Work and Service he can do, and of any Good he hath, or ſhall accreſs unto him, for Direction, Protection, and neceſſary Proviſion, during his Life; but he cannot give up to his Maſter that which is not in his own Power, to wit, his Life, or the uſing Means for his own Salvation, in the Adoration of God: yet the Byaſs of Maſters did almoſt over the World, run Maſters Powers ſo high, as to deny all Obligation betwixt them and Servants, but that they did poſſeſs and rule them as their Beaſts; that they had Power of Life and Death, not by way of Juriſdiction and Juſtice, for a Crime deſerving Death, but for any thing diſpleaſing to them; altho' they would not deny an Obligation to God, in relation to their Slaves, yet refuſ'd all Obligation to their Slaves, that they might demand or exact. And the very like Power was aſſum'd by Sovereigns over their Subjects, whereof Hiſtories are ſo full, that I need not bring confirmation: and if Sovereigns were ſo favourable as to promiſe or give better uſage, they did not thereby conſtitute a right in the Subjects to claim it as due, but only to poſſeſs it during pleaſure, even tho' the Promiſes made an Obligation to God, for

which

which he might Damn them, if they trangreſſed: but their Subjects could not abate any thing of their Obedience, but ever continue the ſame Reverence and Submiſſion; and if they could not give Active Obedience, all means were uſed to force them to it, as being only denied by hypocritical or fanatical folly.

AULICUS.] *Demas* hath gotten the ſtart of me; ſuppoſing Liberty to be the firſt Right, and extending it to the greateſt heighth, that weak or wicked People can ſtretch it to, and the whole World knows what abuſes have been committed under the ſpecious pretence of Liberty, and more particularly of Liberty of Conſcience, which not only *Jews*, *Turks*, and *Heathens* claim to, but moſt ſeditious people make the Vail of Rebellion, becauſe Religion can be leſs known by the Vulgar, and ſo muſt have more implicit Faith to Leaders. Then Civil Liberty, How few do know diſtinctly what Liberty is? There is a Liberty in all rational Creatures, who are capable of determining their own reſolutions and deſires, and their actings, ſo far as not hindred by force, which is applicable to things good, evil, and indifferent, by which they intend and act whatever they pleaſe. I hope *Demas* doth not mean by Liberty, this kind of Liberty, the abuſe whereof is not true Liberty, but Licentiouſneſs, for the ſoveraign God, whom nothing can reſtrain, never accounted it Liberty to do Evil; ſo the Queſtion muſt come to civil or lawful Liberty, and then it ſignifies nothing, till it be known what the Power of the Soveraign is; Liberty takes only place in theſe things which they permit to the choice of Subjects, for the very Name and Nature of Soveraignty, imports a Power to command, and a Duty to obey, in all lawful things, and not only ſo, but ſeeing God Almighty hath inſtituted a Civil Government, having power to determine all Queſtions or

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Controverſies, not only of their own Subjects, amongſt themſelves, but with ſtrangers, and even between himſelf and any part or whole of his Subjects; even in the lapſed ſtate of man Active Obedience might not be denied in all lawful things, and Paſſive Obedience, or ſubmiſſion without reſtriction in any caſe, in which Soveraigns are the Vice-gerents of God, but ſeeing he hath not endued them with an Infallibility, all and every Subject is oblig'd by the Divine Inſtitution, to ſubmit to his determinations, tho' erronious, or otherways the Divine Inſtitution imports nothing; for no man were obliged to obey further than what himſelf thinks right, and ſo he is Judge of his Soveraign, and not his Soveraign of him. There is another wrong ground that *Demas* hath ſaid, That Liberty is the firſt Right, for the Power of Command and the Duty of Obedience, are anterior Rights, and have the firſt place, not only in God, but even in Man, for the Power of Parents, and the Obedience of Children, are anterior, and ſuperior to their Liberty, which takes only place where the Parents commanded nothing; and in like manner the Power of Husbands, and Obedience of Wives, are anterior, and ſuperior to the liberty of Wives; and the Commands of the Goſpel are clear, that Children ſhould Obey their Parents, Wives their Husbands, Servants their Maſters in all things. Seeing then Civil Soveraignty is no leſs a Divine Inſtitution than Marriage, is there any pretence, to deny them as much Obedience as Wives to their Husbands.

CIVICUS.] Both of you have ſaid very plauſible things, and I make no doubt that *Demas* doth not mean by Liberty, that which Philoſophers do *diſpute about, but that which excludes all licentiouſneſs, Id tantum poſſumus, quod de jure poſſumus*; therefore to bring your Diſpute nearer, it will be neceſſary to enquire, whence Civil

Power

Power arose, whether it be founded upon the Light and Law of Nature, or if it be only a Divine Institution, like to Marriage, and when and how it was instituted, I believe none of you will controvert, that the Power of Parents, and Obedience of Children, are founded upon the Law of Nature, written in Man's Heart, that is, he can read it by inspection of his own mind, and it is founded upon that στοργή, or natural affection which Parents have to their Children, very near to the instincts of Brutes, but with this difference, that the affection of Brutes ends when their Off-spring can do for themselves, after which they have no more affection to them than to others of the same kind, not because they know them not, for they frequently chase them away; but Parents retain that affection to their Off-spring perpetually, and scarce can any injury shake it off; and, on the other part, that natural affection of the Children to the Parents, upon persuasion that they are their Parents, thô in reality they be not; the affection betwixt Man and Wife is voluntary, and more easily mutable, but their individual interest supplies it, and thô the desire to appropriate conjugal union, and the animosity against the communication thereof be natural and exclusive of Poligamy, yet certainly the indissolubility thereof is by Divine Institution, as are the degrees in which it is prohibited, and revelation shews us, that it was expressly instituted in Paradise. Thence arose the native and original Power of Fathers of Families, and that Patriarchal Government and Authority by which they were Kings and Priests in their own Families, and had all Jurisdiction both Sacred and Civil, during the long life of the Fathers, when many Fathers had as large a Jurisdiction over their own Posterity as several Civil Governors now have, yet with a power to emancipate their Off-spring, which was ordinarily understood by

Marriage, when a new Family was erected, but so that the Jurisdiction of Controversies amongst the insubordinate Off-spring, was ever reserv'd to the Commune Father. Thus was the World govern'd, till Man's Life became so short, that Decades came in place of Hundreds of Years: this Patriarchal Jurisdiction, as it was a Power over the Off-spring, so it was a Duty towards God, and them, and it was not in their power to transfer it upon Civil Soveraigns, and so to liberate themselves of these Duties God had imposed, and therefore there was a necessity of a Divine Institution of Civil Authority, whereby the Fathers of Families did by mutual consent so associate themselves and their Families into one Body Politick, and did constitute a Soveraign Power, as a Publick Judgment, to determine all their Controversies, whereunto Private Judgment behoved to cede in all things that the Fathers did transmit into it, whether it were to be exercised by the plurality of the whole Fathers consociate, or by the plurality of a few persons, or by one person only, during his Life, or for him and his Posterity, upon such terms as were agreed on; And for the like cause God instituted a Priesthood for the Publick Service of God, and separated the same from the Fathers of Families, or Civil Soveraigns, so that there was never after one person lawful King and Priest, Christ Jesus only excepted, tho often times Priests did endeavour to assume the Civil Soveraignty, and Civil Soveraigns the Supreme Pontificate. That Civil Soveraignty is of Divine Institution, is beyond all question evident by the 13th of the *Romans*, which relates distinctly not to Persons, but to Powers; *the Powers that are, are ordained of God*; but tho God instituted Civil Power, he did not constitute it, except in some of the Soveraigns of *Israel* only; neither did he enjoyn it as a Precept, that all the Masters of Families were oblig'd

to

to incorporate themſelves under a Civil Power, but by way of Priviledge, that they might do it if they thought it convenient; *Abraham* was never under Civil Soveraignty, yet exercis'd all the acts of Soveraignty in Peace and War, even in an offenſive War, for recovery of *Lot*, ſo were *Aner*, *Eſcol* and *Mamre*, his Confederates; ſo were *Iſaac* and *Jacob*, till the latter end of his days, that upon the account of the Power of his Son *Joſeph*, he ſubjected himſelf and Family to *Pharaoh*.

There is nothing to make it appear, that *Laban* and his Family were under any Civil Soveraign; the Treaty betwixt *Jacob* and him, ſpeaks ſtrongly to the contrary. There is therefore a clear reconciliation betwixt St. *Paul*, calling Civil Power a Divine Inſtitution, and St. *Peter* calling it a Humane Conſtitution or Creation, in that it is Divine by Inſtitution, but Humane by Conſtitution and Free Choice, in the ſame way as Marriage. Therefore I cannot agree with *Demas*, that all Men by Birth are free; for certainly Children are not free by their Birth of the Power of their Parents, and thô I acknowledge, that Civil Liberty is a moſt excellent and deſirable Right, yet it is not impoſed upon Man to retain, or to recover it, but it may be totally given away by Servitude, or reſtrained by Civil Government, in ſuch terms as Parties agree, even thô the Civil Government were deſpotick, and all the Subjects in a ſervile condition, that the whole Work and Induſtry belonged to the Soveraign, and all their Goods, but what is neceſſary for Life, thô it were abuſive to call that a Common-wealth, unleſs Property had place under Arbitrary Burdens, not exceeding the half of the Intereſt, which is the leaſt that can retain the name of Property; but all Civil Power being by the voluntary conceſſion of the Citizens, it is never to be extended beyond what is evidently granted,

which chiefly appears by long consuetude, without an overpowering force of Arms; for it can never be presumed, that rational Men would, without necessity or advantage, transmit that Power to Civil Authority, that might put themselves and Families in a slavish condition, or even in an uneasie one; much less can it consist or be effectuated, that they should transmit that, which is not in their own power, as to take their Life away, otherwise than by Justice, for a Cause deserving Death; or to give their Soveraigns a Power to compel them to a way of worshipping God, contrary to the Light of Nature or Revelation; or to make Laws to devest them of their Estates and Liberty, on their refusal; neither to take from them their Wives nor Children. Albeit, in the ancient and ruder times, there were no explicit Terms of Government, but only the Nomination of a King or Prince, whereby he had power to determine all things by the Law of Nature, yet the Abuse of Power hath made the better part of Mankind to clear the Terms of Power and Subjection, by declaring the Laws of Nature, when dubious, and by instituting Laws of the several Common-wealths, consistent with the Laws of Nature and Revelation. Whence hath arisen several Constitutions, Kinds and Forms of Common-wealths, not only in respect of the Persons in whom is the Soveraignty, but in respect of the determinated manner of exercising it, without impediment to the Soveraign Power, to determine all differences that may arise relating to the Common-wealth, but only fixing the Manner and Way how they shall be determined, whence arose the difference of an Arbitrary and of a Regulated Authority. The Arbitrary can command any thing consistent with the Laws of God, manifested by the Light of Nature, or Revelation, known to the Subjects.

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The Regulated Authority can only command by the Law of God, or by a Law ſolemnly made and publiſhed to the Common-wealth, which is the largeſt extent it is capable of. But becauſe ſuch Laws were found oft inconvenient, as being either thought inconſiſtent with the Law of God, or of great detriment to the Common-wealth. Almoſt all Civil Nations have further regulated their Conſtitutions, even in Democracies, where the People govern themſelves. Firſt, By diſtinguiſhing ſeveral Ranks of People in the Common-wealth, that the Plurality of the whole might not be ſufficient: Thoſe were called States. Secondly, The *Athenian* Common-wealths had their Præconſultores; That thô the Soveraign Power was in the People, yet they could cognoſce or determine nothing, but what theſe Præconſultores offered unto them. The *Lacedemonians* had their *Ephori*. The *Romans*, when in Democracy, could do nothing, without the Authority of the Senate. And to come nearer the preſent times; All the Monarchies in Chriſtendom had their States, without the conſent of whom, Emperours, Kings, or Princes, could neither make Laws declaratory, of the Laws of God, Nature, or Statutory, of expedients conſiſtent therewith, without the advice and conſent of theſe Eſtates, yet could they determine all Controverſies, not only by the Laws ſo made, but by the Laws of Nature, and the Cuſtomes of their Countrey, *Secundum æquum & bonum*; but their deciſion made no Law, till by long and free conſuetude they attained the tacit conſent of the Common-wealth.

Such Monarchies are frequently ſaid to be limitted, and reſtricted, which can only be truly ſaid, of the manner of acting, but not of the matter; for they can order and determine all things relating to the Common-wealth, in the way of the Conſtitution; ſo that they are not de-

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fective or imperfect, but have truly that publick judgment that God hath instituted, sufficient to preserve Peace and Order, and to exclude War within the Common-wealth in all cases, that nothing could occur that might not justly be determined without War, even thô it were a Contoversie betwixt the Soveraign and the whole Body of the Citizens; for if these should controvert concerning the Constitution or Extent of Authority and Liberty, if the case were dubious, the right of determining of it, is in the Soveraign, and their Subjects ought to submit and acquiesce, thô the determination were erronious, because the design of the Divine Institution is to exclude the necessity of War within any Common-wealth. But if the case were clear and evident, on the part of the Subject, concerning the Constitution, if the Soveraign (who would never condemn himself in that in which he were resolved to continue) could determine and oblige the Subject to submit in things clear and important, violating the Constitution, then *Aulicus* Opinion would be good, that Laws were only to direct and oblige the Consciences of Soveraigns, but to give no right to Subjects, which they might claim and defend or vindicate, then all Mankind were unavoidably by the Divine Institution rendred Slaves in right, thô not always in fact; for the most miserable Slave enjoys some liberty by the favour of his Master: And if so, that the Soveraign should own the Arbitrary Power of the Lives, and Property of the whole Goods, Works, and Industries of his Subjects, they had no lawful Remedies, but Prayers and Tears. Therefore I crave leave to say, that both *Demas* Liberty and and *Aulicus* Authority are extremes, and that the truth lies in the middle, I have poimed at, which if observed, there would ever be Peace, and frequently Plenty in every Common-wealth, without any Civil War. I will not deny

deny to *Demas*, that the Native Liberty of Man is a moſt delightful Right, and that he is moſt impatient to be reſtrained and conſtrained, but by the Will of God immediately, or by his own conſent; yet is it ſuch a right that it is not from God by precept that muſt be retained, but by priviledge that it may be; but as the Divine Law makes all Promiſes, Pactions and Contracts not inconſiſtent with that Law as obligatory, ſo there is none more important than theſe, by which Common-wealths are conſtituted, every voluntary engagement muſt be a reſtriction of our native liberty, much more theſe which are neceſſary for the common intereſt and outward happineſs of Mankind, ſuch as are the mutual engagements between Soveraigns and Subjects. And therefore there is no Warrant to ſhake off the Power of Soveraigns, thô never ſo heavy, if truly agreed unto either at the firſt Conſtitution or afterwards, by long and free conſuetude, which is no leſs evidence of a true conſent, than expreſs Pactions, and which may alter, heighten or leſſen the authority or liberty as effectually as expreſs Pactions could do; God hath approved abſolute ſlavery, and commanded the ſlaves ſo to continue, yet being Chriſt's Freemen, whereby they are ſtill free to ſerve God according to God's pleaſure, manifeſted to them by the Light of Nature, or by Revelation.

It is not a good conſequence from the univerſal Obedience of Children commanded in the Goſpel, to infer the like univerſality of Obedience to all Soveraigns, becauſe the natural Affection of Parents to Children is incommunicable to Soveraigns; nor the Obedience of Wives to Husbands, becauſe of that incommunicable Affection and Union that is by Marriage; ſo that nothing remains in the Parallel, but the Obedience of Slaves: And beſides, it is certain, that the Scripture doth not ſet forth

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Universalities, as Lawyers do their Maxims, with all their Extensions and Limitations set together, but they are to be understood according to the Subject-matter and other Passages of Scripture. So these Universalities of Obedience of Domesticks are restricted by the Law of God, and even by the consent or pactions of Parties. Is a Wife obliged to be a Slave, if a Husband commanded, or even to quit the Provisions Law or he hath secured unto her? Are Children obliged to obey the command of their Parents, taking from them the right of Goods that is in them, from these Parents or others? Cannot the extent or time of slavery be effectual by the Masters grant? So these are but Pretences to deceive the unjudicious, or to seduce or trepan Soveraigns, making them believe, that their Subjects are obliged to submit and acquiesce to whatever they command. If the Authors of these Opinions could make them always effectual, they might have some pretence; but seeing men too frequently violate the uncontestable Laws of God, not only where they are extremely straitned, but for their pleasure, these Sycophants must tell the Soveraigns, thô all their Subjects be obliged absolutely to obey them, yet they dare not say, they will always do it: and therefore they must strengthen their Authority by standing Armies, which require great Taxes, that they may be able to suppress their People, though they should all concur against them, and that it is more safe to govern by Fear than by Duty or Love.

AULICUS.] *Civicus* hath spoken many plausible things, which have evidence enough of the pregnancy of his Spirit, but they are new and surprising to me, and a great part of them do not convince me; for in the most part of Common-wealths, Kings set up themselves, forcing Provinces and Families to their obedience, and have never acknow-

acknowledged any other Title, but Conqueſt and their Sword; ſo that it cannot hold as a general Rule, that in all Common-wealths there muſt be mutual Agreements, Engagements and Contracts betwixt Soveraigns and Subjects, and thô, in ſome caſes, there were ſuch, yet few of them do appear by authentick Hiſtory or Record: And if *Civicus*'s ground hold good, it lays the foundation of all Sedition and Rebellion, far more hurtful to Mankind, than the extravagancy of Soveraigns; for (as he doth acknowledge) Soveraigns will ever judge for themſelves: ſo if there be reſerved a judgment to the People, in caſes that on their part are clear and important, it is as eaſie for them, when ever they pleaſe, to ſay the caſe is important and clear for them. And ſo no Party, againſt whom judicial Sentences are pronounced, which they think clearly againſt Law, will acquieſce, but will reſiſt, if they have any hope to prevail; and if a great and numerous multitude ſo declare againſt their Soveraign, what ſecurity can they have of their right, but by force of ſtanding Armies, againſt which *Civicus* doth ſo ſtrongly inſinuate? Beſides, almoſt all Lawyers, yea, even Divines, do declare, that it is unlawful for Subjects, upon whatſoever pretence, to take Arms without their Soveraigns conſent, againſt any, much more againſt himſelf; but, which is yet worſe, the People, when ever they are miſled by Factions, may not only reſiſt, but alſo reject, judge and condemn their Soveraigns, as ſometimes they have done, who can ſufficiently prove, what were the firſt Terms conſtituting Common-wealths, which, for the moſt part, were many hundred Years ago. And if ſuch Contracts were, they were for the People, but not with the People, but with God, from whom alone all Soveraigns own their Power.

CIVICUS.] I see *Aulicus* is now streightned, if not convinced, for he runs back to Common Opinions, contrary to his Promise, and will not proceed upon clear and undisputable Grounds and evident Consequences, yet I shall not neglect to consider, the importance of those Common Opinions, and I acknowledge, it is frequently the Opinion of Divines and Lawyers, that Subjects ought not to take Arms upon any Pretence, or in any Case resist their Soveraigns; yet these are but Maxims, admitting Exceptions: For if an Enemy should suddenly invade any Common-wealth, far distant from their Soveraign, may they not without his Warrant defend themselves? Must they lye under the Sword of a Foreigner, till their Soveraigns cause them to take Arms?

But that *Aulicus* may not interrupt me, by saying they have a general Warrant so to do, that must be by a general Law; if then a general Law be a sufficient Warrant, can any be so strong as the very Constitution of the Common-wealth? And besides, he knows, that it is an ordinary distinction, betwixt the personal Actings of a Soveraign, and the Actings of his Civil Power; Divines and Lawyers do not imprudently forbear Misteries of State and Points, that they fear ingenuously to determine. Therefore they seldom or never come to this Point, Whether Soveraigns may so far violate the Constitutions of their Soveraignty, that their Citizens may lawfully declare themselves free of their subjection, to the person so violating, or his Posterity, after the Violations. I do not pretend, that they can condemn or even authoritatively judge their Soveraign, and so can never take his Life for any thing done while he was Soveraign. But their declaring themselves free, is no act of Authority; for when two States or Kings unsubordinate, are in contract together, if one violate his part of that Contract,

may

may not, and does not always the other at his option either force him to perform or declare himself ever free from that Contract? And yet he hath no Authority or Jurisdiction over the other, violating the same. No considering man will seriously deny, that by the very essence and nature of a mutual Contract, (which no Paction can alter) where the engagements are mutual causes, thô they be not equal, both parts are correlats, and must stand and fall together; and therefore the injured hath his option to force the injurer to perform or to declare himself free. Is not this the common Opinion of all Divines and Lawyers, and the common Sentiment of Mankind? Is there any ground to exclude only the Contract betwixt Soveraigns, as to which they are both insubordinate? Soveraignty and Subjection are but consequences of that Contract, no part of it, but it self, is in nature prior to both. Could it be an effectual Paction adjected to a mutual Contract, that albeit the one fail, the other is obliged to perform? I know *Aulicus* is a more just Man, than to pretend it; I am so far from favouring Sedition, that I will not urge, that by Violations of the Soveraign's part, he doth *ipso facto* fall from his Soveraignty, so that every Subject is free from him; for in Social Contracts there is a speciality, That if after violation thereof known to the Society, and they in capacity to exclude the violator, they do yet continue in social acts with him, they are understood to continue the Society, and can never break it upon anterior violations, because Society is frequently contracted by social acts, and therefore much more continued thereby. No man doubts or debates, that in Marriage, which is the most intimate social Contract, which the consent of both Parties cannot dissolve; Adultry or Desertion do not dissolve the Marriage *ipso facto*, but only give a right to the

injured perſon, to obtain himſelf to be declared free. But if after knowledge of the injury, the injured perſon continue the matrimonial ſociety, if it were but by communicating one Night freely of the Marriage-bed, that perſon can never be liberate upon anterior Adultry or Deſertion. It is no leſs certain, that the Conſtitution of a Common-wealth betwixt Soveraign and Citizens is a Social Contract, and if any Party voluntarily continue in it after they know and can ſafely remedy the violations, I will not contend, that they can liberate themſelves upon old violations on either part: For inſtance, If Citizens rebel, and be ſubdued, and thereafter be treated as Subjects, if the Soveraign could ſafely puniſh them, and doth not, he doth as effectually liberate them, as if he gave the moſt ample indempnity. It is like, *Alicus*, you will be pleaſed with the firſt part of this Conceſſion, but your Maſters will not like, that you yield to the ſecond, thô both be alike true; what abſurdity and ruin to Mankind were it, if crimes that admit not of preſcription were puniſhable for ever?

And for further clearing of my Poſition, I ſay, That in the Conſtitution of a Common-wealth, there muſt be mutual Engagements and Obligations betwixt the Soveraign and the Citizens, as they are one Body Politick, and likewiſe with every Maſter of a Family in that Body Politick for himſelf and his Family, yea, between the Soveraign and every Subject, thô no Citizen, but an Inhabitant only. The violation of a Citizen or an Inhabitant's Contract can go no farther than to liberate themſelves, by evident and atrocious injuries, that they may withdraw and become Citizens elſewhere, but cannot give them warrant to diſturb the Peace, or to reſiſt Publick Judgment, thô it were never ſo manifeſtly unjuſt; but if they become Subjects elſewhere, that State may vindicate their right

right, if they ſhall be hindred to diſpoſe of their Eſtates. Neither can the minor part of the Citizens diſturb the peace of the major part by a Civil War, or invade them or their Soveraign: For there is no Contract with a minor part, but with the Body Politick. If theſe who withdraw be by force hindred, they may warrantably by force make their retreat. If the whole Body were injured, yet ſuch as pleaſe may continue in the ſociety of the Common-wealth, and therefore cannot liberate themſelves upon anterior Injuries.

Seeing then *Aulicus* cannot ſecure Soveraigns againſt the Body of the People from revolts, if they be ſore gall'd, is it not more the common intereſt to ſecure againſt Civil War by the minor part, and to ſuffer them to go with freedom of their Perſons and Eſtates, than to force them to rebel, and to oblige the remainant Subjects to aſſiſt them, by that mutual contract that is amongſt them, by which they become one Body Politick? *Aulicus* lays a good ground from the common intereſt of Mankind, which indeed is one of the prime Principles and Pillars of the Law of Nature, but his Application is very bad: For whether is it a greater prejudice to Mankind, that they ſhould become all Slaves, except a few Soveraigns, or that Soveraigns ſhould have ſome inſecurity, in that Subjects may declare, that to be a ſufficient violation to liberate them which is not ſufficient, which cannot be done but by the Body of the Incorporation, againſt which it is ſcarce poſſible abſolutely to ſecure Soveraigns.

By what I have ſaid, *Aulicus*, I am confident you cannot but think, that I have carried equally and impartially betwixt Soveraign and Subjects, and I hope, *Demas*, you will think ſo too.

I ſhall only ſolve that ground of objection, that the Patriarchal Authority and the Terms of Agreements be-

betwixt Soveraign and Subjects, do not convince *Aulicus*, yet I hope they will convince all unbyaſſed perſons, and even him, after more ſerious conſideration. *Abraham*, the Father of the Faithful, did Acts of Soveraignty in Peace and War, not only defenſive, but offenſive; I hope *Aulicus* will not condemn him, as taking Arms unwarrantably, nor can he ſhew any Warrant, but his Paternal Authority. It is ſufficiently evident by authentick Hiſtory, that frequently the Conſtitution of the greateſt and moſt civil Common-wealths, were by Agreements betwixt the Soveraigns and the People. The moſt famous Roman Hiſtorians relate the particular Terms of the Conſtitution of the Roman Monarchy by *Romulus*, who at firſt gathered only together Souldiers, and therewith fortified that place which was afterwards called *Rome*, from his Name, but did not pretend a Soveraignty over them, nor any union or incorporation of them among themſelves in a Body Politick, but propoſed to them to become a Common-wealth, and to chuſe what Government they thought fit, which they referred to him, and he did very equally and juſtly conſtitute the ſame. The *Greek* Hiſtorians are no leſs clear concerning the Conſtitution of the *Greek* Common-wealths, as that of *Athens* by *Theſeus*, for example, is unqueſtionably clear. There are multitudes of other Examples in all Hiſtories, there is no neceſſity to prove the firſt Terms of the Conſtitution of Common-wealths otherwiſe than by immemorial Conſuetude, which can both clear ancient Conſtitutions, and even effectually alter them. It then remains only to clear that ground wherewith *Aulicus* begins concerning Conqueſt, as to which there are many very different caſes: If Conqueſt were upon ſo atrocious injuries and crimes, that the Victor, keeping within the bonds of a juſt puniſhment could expel the former Soveraign, he had much

much to ſay to oblige the Subjects to accept of him in the place of the former, which will not infer, that every conqueſt by meer force can conſtitute a Common-wealth, it may make the People captives, yea, it may lay an obligation upon them for preſerving their Lives and Rights from a cruel Victor, that gives ſufficient evidence that he will deſtroy all that will not conſent to become his Subjects, but it is not his force nor power, but their conſent, that makes them Subjects, and till that conſent be obtained expreſly, or by free acquieſence, it were no Sedition nor Rebellion to reſiſt them. By the Law of Nations it is acknowledged, that Captives in War may warrantably make their eſcape, and force their way, by breaking Priſons and killing Keepers, and though thoſe in whoſe power they are may force them to work and ſerve, yet are they only Captives and Bondmen, but not Servants or Slaves, that can be claimed to be reſtored if they eſcape, until their own conſent ſupervene, after which they uſe not to be kept in reſtraint; much leſs can a Nation become Slaves or Subjects without their own conſent.

AULICUS.] *Civicus* tells me of a mutual Contract between Soveraigns and Citizens, as they are one Body Politick and an Incorporation, but he doth not tell me how they become one Body Politick, is it ſufficient, that they are under one Soveraign. He inſinuates, that this Incorporation is by contract amongſt the Citizens; but many may be Subjects where there is no ſuch contract, and few Subjects can ſhew where there ever was any ſuch one. If then it be only in the power of the Body Politick to reject their Soveraign for his Violations, except he prove that Contract of Incorporation, by his own grounds the Soveraign can never be rejected. And I would further know, what Violations may warrant the

Body

Body Politick to reject their Soveraign. I hope he will not think, that every violation of Law is ſufficient, otherways none but infallible Soveraigns can be ſecured. He doth alſo grant, that theſe Violations do not *ipſo facto* diveſt the Soveraign, but only give a power to the Body Politick to declare themſelves free from ſubjection to the perſon who did violate; if ſo, then all he doth, till that declaration, is good and valid. If then the Soveraign, who violated, offer to repair and ſatisfie his paſt Violations, and to ſecure his People from theſe or the like, in time coming, they cannot refuſe to accept of that offer; for it is the common cuſtom of moſt Nations, that during the ſuit upon any mutual Contract, the defendant may purge his failure at any time before judgment.

CIVICUS.] I was unwilling to be too large, and therefore did but inſinuate the way of incorporating a People, that it was by a mutual Contract amongſt them. No ſober man will deny, that Contracts may be ingaged not only by Word or Writ, but by Fact and Deed; theſe are ordinarily, tacit or implicit Contracts, as the other are expreſs or explicit; the popular Contract is more frequently implicit and ingaged at the ſame time with the rectoral Contract; but it is beyond doubt, that it is diſtinct and naturally prior to the rectoral Contract, I do not pretend it to be by having one common Soveraign, the Kingdoms of the King of *Spain*, and of the King of *Britain*, and of the Emperor of *Germany*, are not all incorporated in one Common-wealth, yea, the King of *Spain* could never obtain the Provinces of the *Low Countrys* ſo to unite, but theſe Kingdoms and Provinces are altogether unſubordinate, a Family is not a Body Politick, albeit under the Authority of the Father of the Family, and therefore when he dies the Family is diſſolved, and all the Children are inſubordinate, and the Servants after

after their term is come; there may also be a Government without the Union of any Families amongst themselves. If the *Ottoman* Race should fail, that Empire would not remain unite, but fall all to pieces; but such a Government cannot justly be said to make a Commonwealth, but a Slavery. That the popular Contract is distinct and separable from the rectoral Contract, is evident by many instances. In an Elective Kingdom, after the death or rejection of the King, the People remain unite, and the plurality either of the whole, or of the several States, have a lawful authority over the minor part, and therefore by the suffrage of the plurality a new King is chosen; if this union were not, the plurality could not over-rule. In a Successive Kingdom, if the Race of the Kings fail, the Kingdom is not dissolved, but may elect another Family to be the Royal Family. If a King be a Pupil, or become fatuous, or furious, the Citizens in the Kingdom have right to constitute a Tutor, or Protector, to him and Realm, as lately the Kingdom of *Portugal*, upon frequent furious acts of the late King of *Portugal*, did constitute his Brother, who now reigns, to rule the Kingdom, which he did under the Title of *Prince*, being indeed but a Tutor, or Protector; yea, there is more reason, that a Kingdom should name a Tutor to an Infant-King, than his own Father, thô amongst Subjects the Tutor nominated by the Father excludes a Tutor dative. The import of this popular Contract is, that every one of the Citizens contract with every one of the rest, that they shall mutually keep commerce together and defend and vindicate their common and particular Rights and Interests, by that Sovereign Prince they chuse, or by themselves; in other cases, form the Interreign, the plurality hath right to govern any War or Common Affairs, and to chuse and constitute the

Soveraign Power in Monarchy, Ariſtocracy, or Democracy, and if there be in the union diſtinct Eſtates conſtituted, their Pluralities muſt be alſo diſtinct. I do not pretend, that every Violation of Law is ſufficient for a People to declare themſelves free, but I affirm, that the Violation of the very Conſtitution it ſelf is ſufficient. For example, If a King ſhould alienate his Crown or ſubject his Kingdom to another, not being his immediate Succeſſor, or if he ſhould aſſume others to turn his Monarchy into an Ariſtocracy, without conſent of the Body Politick, or if he ſhould own and act in a legal regulated Kingdom, as in an Arbitrary or Deſpotick one, and to declare himſelf an Arbitrary and Deſpotick King, he (ſo far as he can) overturns the Conſtitution. If a diſtinction of the Civil and Sacrid Power be acknowledged, the Civil Power owning a Church, eſtabliſhing it by Law, that the Cenſures of it have in civil aſſiſtance and concourſe of courſe, as to theſe it becomes a part of the Civil Conſtitution, and ought not to be altered in its Conſtitution, without the conſent of the Church, yet I ſee by the publick Records, an eminent Example in the contrary. The Conſtitution and Government of the Church of *Scotland*, ſetled in their Reformation, and confirmed by many Laws, was totally overturned in the Parliament 1661. without the conſent, and even without the advice or hearing of that Church, or of any Eccleſiaſtical Aſſemblies or Authority, the like whereof was never done in any Chriſtian, or even in any Civil Nation, againſt the Prieſts, thô that Church was confirmed by a Pacification with King *Charles* the Firſt, and by him eſtabliſhed in the Parliament 1641. in which he was perſonally preſent, and again eſtabliſhed and confirmed by King *Charles* the Second, by a ſolemn Treaty, (where

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by he was recalled from Exile, and reſtored) by an Act of Parliament, in the Year 1650. wherein he was perſonally preſent, which was adjurned, but violently interrupted by *Cromwel's* Army, yet continued again by the King after his return, and the Affairs of the Nation managed by the Committee of Eſtates of that Parliament, from the King's return, to the very day of the Parliament 1661. which was never diſſolved, neither was the Parliament 1650. reſcinded or queſtioned. But whatever the Parliament might do, as to the Civil Sanction, in reference to the Church, could the Frame and Government of the Church be changed, without any Eccleſiaſtical Authority? and could a third part of the Miniſters of the Church, and the far beſt part of them, be thrown out of their Churches and Livings, by a Proclamation, without Citation, or Liberty of Defence, a great part of which Miniſters are yet alive? The Body Politick of the Citizens may warrantably declare, that the King hath violated the Conſtitution on his part, and ſo the People may declare themſelves free of ſubjection to him, which doth not diſſolve the ingagement to his Race, but makes way to the next perſon to ſucceed in their own proper right, and not by a new Conſtitution of the Citizens; for in all Succeſſive Monarchies, not only the firſt King hath right, but always the neareſt of the Blood-Royal to him that laſt reigneth; ſo that the ſucceſſor is not properly Heir of his predeceſſor, that all his Engagements or Delinquencies ſhould effect his ſucceſſor as well as himſelf, albeit by the conſtitution or Cuſtom of particular Common-wealths, violation of Contracts may be purged before Judgment, yet that is not by the Nature of the Contract, or by the Law of Nations, and therefore no inſubordinate King or

State is obliged by such a Law or Custom, but do upon the breach, without requisition, either declare War to force performance, or otherwise declare themselves free for ever. As to Deeds done by Soveraigns, after these Violations, and before the same be declared, the administration of Justice in the interim is valid, because it was a common Duty of Mankind in the vicinity before constitution of a publick Judgment, otherways there had been no remedy against the Fathers of Families, or others being insubordinate: And it is by that right, that Princes or States relieve the Subjects of their Neighbours from grievous Oppressions, tho they have no Call or Warrant from them: And by that same right they judge Strangers that are in their power, tho they be not their Subjects or Inhabitants of their Countries, but Travellers or Traffickers, which is not to be extended to other voluntary Acts burdening and pre-judging the Subjects.

AULICUS.] *Civicus* builds much upon the Fundamental Laws, about which there is so much uncertainty and contest, every party making these which makes for them Fundamental Laws, I would gladly know, what *Civicus* meaneth by Fundamental Laws.

CIVICUS.] I hope to make it abundantly clear, what is to be understood by the Fundamental Laws of every Common-wealth, to wit, The Special Power agreed upon between the Soveraign and the Body Politick of the Citizens, which maketh the Constitution of the several Common-wealths.

That I be not tedious, I shall only apply it in a Monarchy. If by expres Agreement, or by long and free Consuetude, it appear, that the Monarch may command what he pleases, not repugnant to the Law of God, nor destroying Property, the Monarch is Absolute and Arbitrary, and

and the People have only power to preſerve Property, though it may be unequally burthened; but if it be ſo agreed, that the Monarch alone can make Laws, impoſe Taxes, make Peace and War, then it is a legal Monarchy, and the People are not obliged to obey, till a Law or Publick Edict be made and ſolemnly publiſhed, which gives right, though repealed, as to what was done while it ſtood. But if the Agreement between the Monarch and the People be, that he ſhall make no Laws, and impoſe no Taxes, but with conſent of the Lords and Commons aſſembled in Parliament, that maketh the Conſtitution and the eſſential form and kind of the Government. And if it be a Succeſſive Monarchy to Heirs Male only, Female cannot ſucceed. Or if it be a Lineal Succeſſion, having place of Repreſentatives, the Daughter of a Son will exclude the Son of a Daughter. This cannot be changed by a Parliament, without a further Warrant than the ordinary Election, and not in prejudice of the apparent Heir exiſtent, without his or her conſent, or for a juſt cauſe. There is no leſs difference betwixt a legal regulated Monarchy, governed by the conſent of the Eſtates of the Kingdom, and an Abſolute, Arbitrary and Deſpotick Monarchy, than there is betwixt Monarchy, Ariſtocracy and Democracy; for the extent of Power is of more import than the number of Perſons governing. This regulation of Monarchy, by the conſent of Eſtates, doth not make it lame nor inſufficient for effectuating the Divine Inſtitution of a Publick Judgment, which hath two parts, the Legiſlative and Executive. By the Legiſlative Power, Laws are made, and Taxes are impoſed. The Laws are either Declarative of the Law of God, by the Light of Nature, or by Revelation, acknowledged by the People, or Conſtitutive of Expedients, conſiſting with Divine Law; yet a Monarchy, at its firſt conſtitution, could determine

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all Controverſies, that could befal amongſt the Subjects, or with Strangers, by that common Juſtice which is the Rule of the World; but the determination thereby makes not a general Law, till by many, in a long tract of time, a Conſuetude be introduced, which hath as well the conſent both of the Monarch, and of the People, as a Statute made in Parliament, and cannot be altered but by ſuch a Statute. Every Nation hath their Common Law, the beginning whereof is not known, which they account more precious than Statutes. Therefore the Monarch rules in particular caſes by the Law of God, where general Statutes are not made, and by theſe where they are made. But in a Monarchy regulated by State, the Monarch cannot alone make even a declarative Law; for Judgments in particular caſes will not be effectual in ſuch caſes, but if the Error appear, he is bound to judge otherways; yet if a general Law be made, he, and all ſubordinate to him, muſt judge according to it. The Executive Power then conſiſts in the applying the Laws of God in particular caſes, as Judges in ſeveral caſes apprehend to be juſt, where they may amend their former miſtakes, thô not always in the ſame individual caſe, but in the like, the executive power applying general Laws, have the caſes therein determined more clear, and are more culpable if they multiply them. A Monarch therefore cannot make a General Edict or Command, but by a General Law, otherways he incroaches upon the Conſtitution, Law comprehends ancient conſuetude, wherein both the Soveraign and People agree, no leſs than in Statutes or Declaratory Laws.

AULICUS.] Shall Monarchs then be ſo reſtricted? the Roman Pretors emitted General Edicts, and all Soveraign Courts do ſo alſo.

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CIVICUS.] Soveraign Courts do only determine the manner of the procedure, the Forms and Styles neceſſary for the Adminiſtration of Juſtice. The Roman Pretors Edicts were but annual and explicatory of Law, and chiefly in the matter of form, until their *Edictum perpetuum*, which became a general Law.

AULICUS.] Is it not the general acknowledgment, that all the Subjects ought to give obedience unto the King, in all things lawful? And hath it not lately been declared in Parliament, that it is a traiterous Poſition, that the King, or thoſe commiſſionated by him, may be reſiſted by his Authority?

CIVICUS.] All the Aſſertions are true in their genuine ſence, thô many, through ignorance, or worſe, do miſconſtrue them ſo groſly, that when the conſequences are known, they cannot but be aſhamed to own them. The Subjects are obliged to obey their Soveraign in all things lawful for him to command by the Law of the Common-wealth; and therefore lawful is not to be underſtood of that which is licit, and which a Subject might do without ſin; for then if the King ſhould command his Subjects to deliver up all their Charters and Rights, and to tranſmit their Properties to him, if he ſhould command them to work in Brick and Clay to build Pyramids, as *Pharoah* did, theſe were in themſelves lawful to to be done, not contrary to the Law of God, but it was not lawful by the Law of the Land, for the King to command them, nor were the Subjects oblig'd to obey them. That Declaration againſt reſiſting of the King, or thoſe commiſſionated by him, by his own Authority, importeth nothing, for it is an evident inconſiſtency to act two contraries by the ſame authority, unleſs it were by the Laws of the *Medes* and *Perſians*, which cannot be altered, and it muſt be underſtood of a legal Commiſſion, for

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Magna Charta declares a Commiſſion againſt Law, null and void. It is beyond doubt, that there is a difference betwixt a King's Natural and his Civil Capacity; if a King ſhould invade a Subject to kill him, or to raviſh his Wife or Daughter, he might lawfully reſiſt, as a Child might reſiſt his Father, only in the caſes that were irreparable, and only defenſible, but might not kill him to ſave his own life, as he might kill another aggreſſor. I will not refuſe the like to a King by his Subjects, ſeeing greater hazards of life is often undertaken in War, the duty of preſerving life would no more be tranſgreſſed in that than in this caſe. Submiſſion is due to the judicial ſentence even of death, though unjuſt, but not to the extrajudicial force of a Soveraign, much leſs to others by his Commiſſion.

AULICUS.] I cannot but acknowledge, *Civicus*, that you have ſpoken probable things, if men were framing a new *Eutopean* Common-wealth, but they do not quadrate to theſe States that are formed, and fixed; and to return to that particular important caſe, which is now in every man's thought, about which we have been diſcourſing, what could legally be done conſiſtent with the Conſtitution of *England* in theſe matters, can they be otherways determined, than by a Parliament, which can neither be called, nor held, without a King, or his Lieutenant, whether authorized by his Commiſſion, or by the Law, whereby Protectors are conſtituted to Infants, or fatuous Kings, none of which can now take place, ſo that there is no remedy, but by the Kings calling a Parliament, and do you expect, that he will conſent to exautorate himſelf, both Houſes can legally do no more but prepare Laws for the Royal Aſſent.

CIVICUS.]

CIVICUS.] I have already ſhewn, that in every Common-wealth, there muſt be two Contracts, one amongſt the Citizens, whereby they become one Body Politick; another between the Soveraign and the Body Politick; there have been, may, and muſt be Aſſemblies, not only founded upon the rectoral, but upon the popular Contract, as if the Royal Race ſhould fail, the popular Contract is not thereby diſſolved: therefore the Citizens may aſſemble by themſelves or their deputies, they may by a new rectoral Contract conſtitute the Monarchy in another Family, and in the caſe of the infancy, fatuity, deſertion, or renuntiation of the King, and not by any Law of the Kingdom, but by the Body Politick in their own proper right, which is not authoritave, nor is there in it that publick judgment to determine all Controverſies which might concern the Common-wealth, but they can only by the judgment of diſcretion declare their own right, as they are a Body Politick; as the States of *Holland*, for inſtance, meet together to deliberate and reſolve, whether the late Treaty with the King of *France* be violated by him, and whether they may not declare themſelves free of it for ever. I have told you, that the King and both Houſes of Parliament can change nothing of the Conſtitution of the Kingdom, without the conſent of the Body Politick, not by the general Election of Members to ſerve in Parliament, but by a more particular Power; and therefore the Parliament cannot alter the Fundamental Laws of State: yet ſure theſe may be altered, if all parties intereſſed conſent. There is no other Law by Act of Parliament, but a poſterior Parliament can repeal it, thô the prior Parliament ſhould declare it unalterable, thô they ſhould ſwear never to conſent to the change thereof, whatever obligation that Oath lays upon particular perſons in that Parliament; is there any queſtion

but a new Parliament of different Members may repeal whatever the former did, as a perſon by no reſolution can incapacitate himſelf to make a contrary reſolution, ſo neither can a Society, and yet both a Perſon and Society are bound by their lawful Contracts, whereby a right of exaction is conſtitute in another, yet other reſolutions conſtitute no ſuch right, and are ever in their power. There are three things generally and earneſtly deſired in this Iſland; The Excluſion of a Popiſh Succeſſor; A juſt Liberty of Conſcience, on which the People might reſt as a Fundamental Law, And the Union of the two Kingdoms. Can theſe be effectually done by Parliaments, unleſs the Body Politick do give their conſent, that the ſubſequent Parliaments may deliberate and determine theſe Points? may not ſuch an Aſſembly warrantably deliberate, reſolve, and declare, whether the Conſtitutions of the Kingdoms be violate, ſo eminently and evidently, that thereby they may free themſelves from their ſubjection to that perſon who ſo violated the ſame, and that conſequently the Crown is devolved upon the next of his Blood, and that none begotten of him ſince theſe Violations can ſucceed? None but thoſe that are blind-folded by prepoſſeſſion and prejudice can ſeriouſly refuſe that theſe things are warrantable by the Body Politick, without a power ſuperior to the King, more than the States of *Holland* can pretend a power ſuperior to the King of *France*, in declaring the Violation of their Treaties.

DEMAS.] I am glad to find *Civicus* ſo equal and moderate, and I do well agree to the Union of Families in one Common-wealth, and to the ſetting up a Government amongſt them, but I do not underſtand *Civicus* rectoral Contract, I ſee no neceſſity of it, and great inconvenience by it. In mutual Contracts there muſt be valuable

luable conſiderations and cauſes on both parts, but in theſe that are done by Mandate, and Commiſſion, there is no more requiſite than the command, in moſt caſes where the Mandatar is obliged to obey, and in other caſes his voluntary acceptance of the Mandate ſufficeth; yet ſtill it is underſtood, that the Mandant may recal his own Mandate, when he pleaſes, much more when he hath a weighty reaſon, unleſs the Commiſſion were more to the behove of the Mandatar, than of the Mandant, when a King or State gives a Commiſſion to a perſon to be an Embaſſador, a General, or a Judge, is it not ſufficient? and ſuppoſe in ſome caſes, the nature of a Mandate may be ſo far changed, that it cannot be recalled at pleaſure, yet the nature of it cannot admit, that it ſhould not be revocable, when it is not performed according to the Inſtructions of the Mandant, much leſs when contrary thereto. When a People makes a Perſon their King, giving him glorious and great Titles and Powers, can he have any thing equivalent, or even a valuable conſideration on his part? is not the Peoples deed gratuitous and of meer favour? ſomething might be pretended, if a King brought in another Kingdom or Province to be united. When the People of *Poland* called *Henry*, Duke of *Anjou*, afterwards *Henry* the Third, King of *France*, to be their King, what valuable conſideration brought he on his part? In all gratuitous Deeds and Donations nothing is preſumed to be given more than what is neceſſary for the ends expreſſed. I ſhall not fall upon theſe debates, whether the Soveraign Power be ever in the People, or that they be two Supremes in the Common-wealth, a Majeſty real in the People, and perſonal in the Prince, for both which, there are not wanting the Writings of learned Lawyers and Polititians, but in this I am clear, that thô the creation of a Soveraign Power of Government were

expreſly declared to be perpetual, yet ſtill it is for the benefit of the Common wealth, and if it be ſo perverted as to become to the detriment of it, it may be recalled; but there is yet a more univerſally acknowledged Principle, *Salus populi ſuprema Lex*: this is ever underſtood even in the Contracts of Kings and States with Foreigners, much more in the Contracts within the Common-wealth, where the intereſt of the whole muſt ever over-rule the intereſt of any part. So that to me it is clear, that in the preſent conjuncture of theſe Kingdoms, the ſafety of the People doth require a change of the Perſon in the Soveraign Power; and therefore theſe Meetings of the Body Politick may warrantably ſet the Crown on the Prince of *Orange*'s Head, who beſt deſerves it at their hands of any mortal, and is beſt able to maintain it, and the peace of the Nations, againſt all contrary attempts, and who is ſo juſt and moderate a Prince, that he will not refuſe any thing that ſhall be found neceſſary to ſecure Religion and Liberty in ſubſequent Reigns, which is the expreſs deſign of his noble Enterprize, contain'd in his Declarations, which every body is capable to conceive; yet many are not able to comprehend *Civicus* his grounds, yea, thô they were the only juſt grounds, yet the Crown behoved to be declared to belong to the Princeſs; ſo that the Prince, if he ſtay in *England*, ſhould neceſſarily fall to be her Subject, and thereby loſe that Divine Right he hath acquired and poſſeſſeth, of governing her, and her Eſtate, which as it were very unſuitable and ungrateful, ſo it is not to be expected, that ſo generous and warlike a Prince would accept of it, or would ſuffer his Wife to leave him, or to become his Soveraign, whatever may be ſaid of a Queen chuſing a Husband after ſhe is Queen, that ſhe cannot ſubject her Kingdom to a ſtranger, without the Kingdoms conſent, and there-

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fore when Queen *Mary* was married to *Philip* of *Spain*, there was a Special Contract, with consent of the Parliament, by which the whole Regal Power was to be exercised by her alone, thô he had the Title and Dignity of the King of *England*; and thô the Prince of *Orange* should have the Matrimonial Crown, in all its extents, the King of *England* may then again relapse unto a Prince of *Orange*, if the Queen should die before him, and become subject to his own Child, or to the Princess of *Denmark*. The History of *England* doth much confirm this power of conferring the Crown even by a Parliament, passing by the lineal Succession: *William Rufus* was preferred to his eldest Brother *Robert*, *Stephen* to *Maud* the Empereſs, the Crown was transferred between the House of *Lancaster* and *York*, by many vicissitudes, so that there was a Law made, that the King *de facto* secured all these that acted by his authority, while in possession of the Crown.

CIVICUS.] *Demas* grounds may readily take with those who do not accurately consider Justice and Right, but Interest and Advantage. I hope to clear up his mistakes, that they will not take with any just mind, I am confident they will not take with the Prince of *Orange*. *Demas* own grounds acknowledge, that there must be a mutual obligation even in a Commission, and that a Commission may be made irrevocable, except for acting contrary to the design of it; and therefore upon the matter he doth agree with my grounds, but then he runs to that Maxim, *Salus populi suprema Lex*, which is true in its genuine sence, but nothing hath been more misconstrued, and worse applied; Princes have thereupon transcended the bounds of the Law of the State, pretending that the People were much more happy, the more absolute the Soveraign Power were, and that they cannot

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be ſafe from Rebellions otherways; the People again, thô they acknowledge their Obligations of Obedience to their Soveraigns never ſo amply, yet ſtill they pretend, that this is a neceſſary imply'd quality, *Salus populi ſuprema Lex*, and therefore will lie under no government that may be rigorous and burthenſom, yea, every State and Common-wealth, thô never ſo ſmall, apply this Maxim to themſelves, that whatever is the intereſt of their State is right. The World knows how far the Eccleſiaſtical ſtate of *Rome* hath abuſed this ground; all things become good that promote the intereſt of the Church: on this ground every State may raviſh the Provinces of their Neighbours, if they think that they are requiſite for their own ſecurity, but the true meaning of the Maxim is only in relation to the ſubſiſtance of a People, that might be abſolutely deſtroyed, or might ceaſe to be a Common-wealth, and become Slaves, which therefore will not conclude as to any other convenience or advantage. If this Maxim hold in *Demas* ſence, then the Obligations to the Royal Family import nothing, but the People may ſet up an Ariſtocracy or Democracy, which yet is contrary to the free and frequent Declarations both of Kings and People. An Aſſembly of the Body Politick may not only deliberate and determine what invaſions have been made upon the Conſtitution of the Kingdom, but alſo whether they may thereupon declare themſelves free from ſubjection to the Author of them, in which caſe they ought to declare to whom the right of the Crown doth belong, and if to the Princeſs of *Orange*, they ought alſo in juſtice, gratitude and remuneration, immediately declare, that the marital Crown doth belong unto the Prince of *Orange*, during all the days of his life, thô he ſhould ſurvive the Princeſs, in which there will neither be injuſtice nor unkindneſs to the Prince and Princeſs of *Denmark*, for it is incon-

inconsistent with Royalty to be for a less time than life, if it be not the King's own fault. There is also a great difference between the interest of descendants and collaterals in Crowns; Descendants are Heirs apparent, and if existent, have acquired that right which cannot justly be taken from them, but by their consent or fault, but Collaterals can never be esteemed Heirs apparent or presumptive, because there are ever hopes of a Son of the present regnant, which was a chief consideration of the House of Commons, in the designed Exclusion of the then Duke of *York*; and withal, it may be remembred, that if the Prince of *Orange* had not interposed, what danger there was of exclusion of both these Princesses, by bringing in a supposititious Son, whereof there are so pregnant and violent presumptions, which were an alienation of the Crown, which by all is acknowledged to make the Monarch fall from his right *ipso facto*.

As to the Examples adduced, they are far from proving, that the Monarchy of *England* is Elective, seeing the constant Declarations of Kings and Parliament, have been in the contrary; Precedents are only of moment when there is not a Rule: yet such usurpations, thô invalid at the beginning, if they be acquiesced in by the Parties concerned, that no means are used for expelling the usurper, the common interest of Mankind admits not War upon old quarrels, which would make the whole World to be a Field of Blood, there being no Kingdom or State of civilized People, to which there are not pretences of others, upon old Titles. In this and like cases, the Maxim, *Salus populi suprema Lex*, is very pregnant, when by the People, is not meant, that or this Common-wealth, how petty soever, but the great Common-wealth of Mankind, which God hath united by a most evident Principle of the Light of Nature, never to hurt the Common Interest

tereſt of Mankind, for the particular Advantage of any part of them.

DEMAS.] *Civicus* Matrimonial Crown is an unpathed way, it is not well known what it doth import, whether a meer honorary Title, ſuch as *Philip* of *Spain* had, or if a real Power, how far it doth reach; whether it be ſuperior, inferior or equal to the Power of the Queen, which may impede or retard the Exerciſe of the Government; neither doth it appear, whither it doth continue after the diſſolution of the Marriage: And if it do not, the Convention cannot juſtly and warrantably extend it, their Commiſſion and Deſign not being Legiſlative, which is proper to a Parliament, but as they repreſent the Body Politick to declare the import of the original Contract betwixt the King and them, and thereby the Conſtitution and Fundamental Laws thence ariſing, the Breaches and Violations thereof, their own freedom from the ſubjection of him that did violate the ſame, and conſequently they ought to declare, whether yet a Monarchy, a Crown, a Throne, remain, and who hath right thereto; for if there be a Monarchy, the King dieth not: ſo that they cannot gift the Crown, or extend or retrench the Right thereof upon *Civicus* grounds, which will not ſecure the Nation againſt the entailing of a War upon pretence of a Son born or to be born to the King. And therefore there is a neceſſity for the ſafety of the Nation, not only to exerce a declaratory, but a conſtitutory Power; and if ſo, to uſe it prudently and ſafely, by ſetling the Crown on the Prince of *Orange*, during his Life, and after his death, in the Princeſs *Mary*, and after her death, in the neareſt of the Royal Line, for the time, whereby ſufficient reſpect is ſhewn to the Royal Family, without rendring the Nation unſecure; for certainly the Princeſs *Mary* cannot be declared

clared Heir of the Crown, for there cannot be an Heir to a living man.

CIVICUS.] I ſee ſtill *Demas* recurrs to his Popular Principle, that the Soveraign Power is ever in the People, and that they may Diſpoſe of it when they ſee the intereſt of the People require it. He finds his general ground of *Salus populi*, is not ſafe, but Juſtice muſt precede Advantage. The original Contract whereby this Monarchy is conſtituted, muſt be exactly conſidered what it did import, whereby he will not find, that the Crown was given to the firſt King and to his Heirs, as deriving right from him, whereby the excluding of him would have excluded all that came of him, as being his Heirs, and in Law reputed as one perſon with him: But the Crown was provided to him, and as immediately to the next of his Blood as to himſelf, which was to have enjoyed the ſame immediately from the People, as well as he, and ſo all of his Blood, next to the perſon reigning, for the time; and thô it be frequently in Law ſaid, the King, his Heirs, and Succeſſors Heirs, are expreſt only by way of deſignation, as being ſuch as might be Heirs, as it is frequently in entails, *failing ſuch a Branch, the Heirs of ſuch a Perſon*, which doth not import, that the Heir of entail behoved to be entered Heir to the perſon named in the next branch, but only as a deſignation of that perſon that might be his Heir. This will appear to be no ſubtilty, but ſolid Truth; Firſt, from the moſt important intereſt of the People, that there might be an uncontroverted progreſs of the Soveraign Power, without the neceſſity of a new Election, otherwiſe the Body Politick would rather have made a Kingdom wholly elective, which they did ſhun to evite the great hazards by Factions and Brigues to attain the Crown. Therefore the right of the Crown was immediately given to the next of the Blood

of the Royal Family, at the termination of each Reign, whether by death, abdication, renunciation or violation of the Conſtitution, otherwiſe in all theſe caſes the ſucceſſion of a Royal Family ceaſed, and the neceſſity of an Election were introduced, whereby *Demas* quibble that there cannot be an Heir to a living man evaniſheth, for there can well be a Succeſſor, who might be Heir if the King had died, when he violated or abdicated the Conſtitution of this Kingdom. It is true, both Houſes have agreed, that the Throne is void by Reſolutions upon the firſt Queſtion, Whether the late King *James* be out of the Throne, but they were not then come to the ſecond Queſtion, Whether there be now any right to the Throne, to be owned, and declared by them: which in theſe very Reſolves is implied, for they ſuppoſe a Throne, and therefore a Crown, and the exiſtence of the Kingdom of *England*. This Kingdom muſt either be Elective or Succeſſive, which muſt be regulated by the original Contract, acknowledged by the Votes of both Houſes; can it then be pretended, that the orignal Contract of this Monarchy, or of this Race, was wholly Elective, and during the Life of the firſt Monarch, hath not long and free Conſuetude, and the frequent Declarations of Kings and Parliaments, put it beyond all debate, that this is a Succeſſive, and not an Elective Monarchy; can the tolerated intruſions of ſome few, without an antecedent conſent, but only by a ſubſequent ſubmiſſion, ever returning to the right Line, alter the original Contract, or Conſtitution? muſt we juſtifie the extruſion of King and Parliament, and the ſetting up of the two *Cromwels* in the Soveraign Power, and yet the People ſubmitted to both, and by multitudes of Addreſſes, from all the Shires and Boroughs, acknowledged them? Neither do the Viciſſitudes of the Houſe of *York* and *Lancaſter*, or the Act ſecuring

ring the Peoples Obedience to a King *in facto*, import any thing as to the right of the Crown, nor can it be extended beyond that caſe, where the Nation was ſo divided, and the Queſtion ſo difficile, that ordinary capacities could not clear their duty in it. That learned and accurate Conference between the Members of both Houſes, did upon convincing grounds agree, that notwithſtanding the Excluſion of the late King, this remains yet an Hereditary and Succeſſive Monarchy, and is not Elective. It is very juſt and neceſſary, that in a dubious caſe, the Body Politick ſhould determine themſelves, whom to acknowledge as lawful Succeſſors, for it were againſt reaſon, that either Party pretending ſhould be Judge and Party in his own cauſe, before either were acknowledged, and put in the Throne. When *Richard* the Second was exauctorated, *Henry* the Fourth claimed the Crown as due to him, which the Parliament acknowledged, by the right of his Blood, not by their Election, or Conſtitution; ſo that it becomes a regulated Caſe, in and by a free Parliament.

As to that difficulty, that it is not certain and clear, what the Prince's intereſt in the Government will be, when he and the Princeſs ſhall be declared King and Queen; there are two ways to ſolve and ſatisfie it, firſt by determining this important Queſtion, What the Power of a Husband is in the Government of a Kingdom, to which his Wife ſucceeds, after ſhe is his Wife, which is very far different from a Queen's ſuper-inducing a Huſband, to whom ſhe cannot communicate her Royalty (without conſent of her People) by the moſt formal and expreſs Conveyance ſhe can make; but when a Husband hath all the right that the Divine or Humane Law can give him, to govern his Wife, and to manage her Eſtate, and diſpoſe of the Profits of it, whether a Crown falling or accreſcing to her, doth oblige him to depart from his

marital Power, and ſuffer her to leave him, that ſhe may be a Queen, or to make him her Subject; or if theſe who claim her to be their Queen, can refuſe to take her as ſhe is, being a Wife, or if they muſt take her Husband to exerciſe his marital Power, even in the Affairs of the Kingdom, whereby he becomes a King, which naturally and neceſſarily imports the continuance during his Life; if we conſider the Divine Law, inſtituting Marriage, and by it a Government, and a perpetual Society, and Communion of Rights, we ſhall find no exception, whether the Wife be a Queen or not, a Kingdom doth often embrace an Infant, or a fatuous Perſon, is there then reaſon to refuſe a Queen, becauſe ſhe is a Wife, or to make her ceaſe to be a Wife, being obedient to her Husband in all things? It is true, the Roman Law, which was eſtabliſhed when they were Heathens, being ignorant of the Divine Inſtitution of Marriage, left the Wife in the Power of her Father, and not of her Husband, but no Nation now doth ſo. If we conſider the Cuſtom of Nations, we ſhall never find a Queen, but her Husband was King of her Kingdom; and if we enquire whether he ceaſed to be King by her death, we ſhall never find he did ſo ceaſe; *Mary* Queen of *England*, being Queen, was married by conſent of Parliament, to *Philip* of *Spain*, and by a ſpecial Contract he excluded himſelf from the Adminiſtration of the Government in her life, or after her death, and ſhe died before him without iſſue. *Mary* Queen of *Scotland* was firſt married to the Dauphin of *France*, and then to *Henry* Lord *Darnly*, who was crowned King with her, and both died before her, yet in both Kingdoms the Title of all Publick Adminiſtrations was thus: *Philip* and *Mary*, King and Queen of *England*; *Francis* and *Mary*, *Henry* and *Mary*, King and Queen of *Scotland*. The Queen of *Navarr* was married to the Duke of *Bourbon*, who

who thereby was acknowledged King of *Navarr*; he alſo died before her. *Iſabel*, Queen of *Caſteel*, before ſhe was a Queen, was married to *Ferdinand*, King of *Aragon*, who ſurvived her. This is the only Caſe I know which quadrats with ours, he adminiſtrated the Government during the Queen's life, and ſo continued King after her death, not in the Title and Dignity only, but in the full Power. *Henry* the Seventh of *England*, being Heir of the Houſe of *Lancaſter*, married *Elizabeth*, Heireſs of the Houſe of *York*; the Hiſtory of that time maketh it clear, that the People acknowledged the right to be in her, and were diſpleaſed that he attributed it either to his Sword, or to his proper right, but never queſtioned his ſole Adminiſtration. If we conſider the municipal Law of *England*, it attributes more to Husbands, than any other Law of the World, except that of *Scotland*, whereby the Husband enjoyeth the management and profits of his Wife's Eſtate, being an Heireſs, not only during her life, but after her death, during his own life, thereby not only ſuſpending the effect of her Heirs ſucceſſion, being collateral, but even being her own Children, albeit they be not his Children. It is true, Cuſtom hath introduced an Exception amongſt private Parties, that there muſt be a living and ripe Child born, but thô it ſhould die immediately after the birth, it ſuffices, which cannot import, that the Wife's heritage ſhould rather fall to the Children than to the Husband, which being a rational conſideration might be extended, but not being ſo, it is ſtrictly to be interpreted, and never to be extended to Soveraigns.

Seeing then there is ſo much to be ſaid by all Laws and Precedents, that a Wife becoming a Queen, her Husband hath the Title and Adminiſtration, during all the days of his life, cannot conſiſt with the intereſt, juſtice, or gratitude of this Nation, which the Prince hath delivered from ſla-

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very in their Conſciences, Liberty and Eſtates, and put the Nation in full and free capacity to ſettle and ſecure Religion, Liberty and Property, in ſo great freedom, that he hath never by word, countenance, or deed expreſſed what he would have done, or in what manner, but tho' he hath a powerful Army under his command, hath lived by this Convention as if he were unconcerned, and who being ſo pious, prudent, warlike and modeſt a Prince, ableſt of any Mortal to defend and ſecure the Nation; ſhall he (I ſay) be the only example that ſhall be excluded from the Adminiſtration of the Government of this Kingdom, accreſing to his Wife, during all the days of his life.

Secondly, It will cure the Scruples of any Friend, and prevent the pretences and projects of all unfriends, if the Princeſs ſhall conſent, or hath conſented, that the ſole Adminiſtration ſhall be in the Prince, which none will doubt that ſhe will chearfully do, who know her to be the moſt vertuous and judicious Princeſs, and the moſt obſequious and obſervant Wife in the World, ſo that will need no more but a motion from the Convention, to her to do it, or to the Prince to ſhew what ſhe hath ſignified concerning it; neither is there ground of doubt, but that the prudence and gratitude of the Prince and Princeſs of *Denmark*, prompteth them to do the like: Beſide that there is much more power to over-rule the collateral and remote, then the neareſt and deſcendent Heir of the Crown, being exiſtent.

By either of theſe ways, there remains no difficulty as to the Allegence to two, or that a perſon being King, as Husband, can only be King while Husband, for it is evident by the Courteſie of *England*, that the ſurvivency of his Wife's Eſtate, being an Heireſs, belongs to the Husband, and yet ceaſeth not when he ceaſeth to be Husband, by his Wife's death.

DEMAS.]

DEMAS.] If the Convention can only declare, and not conſtitute the Right of the Crown, then the Propoſals agreed upon by them, for curing the Grievances of the Nation, and preventing the like, for the moſt part can neither be kindly nor juſtly required of the Prince.

CIVICUS.] This inconvenience importeth not much, for there is no ground to diſtruſt this Prince, who hath declared to the World more equally and juſtly for the Liberty of Subjects, then ever any Prince did, and whoſe Honour would be eternally blemiſhed, if he ſhould counter act theſe publick Declarations, upon which he was free (if occaſion had offered) to have ſhed ſo much Blood of his Friends, and Enemies, then which no promiſe can be ſurer; ſo that recommendation of theſe things as expedients, is abundantly ſufficient as to him, and his promiſe before he is acknowledged and declared King, cannot make a Law, obliging his Succeſſors, as his conſent in Parliament can do.

DEMAS.] *Civicus* doth ſo ſtrongly aſſert the Right of Succeſſion, that he brings on greater inconveniences, then thoſe he endeavoured to prevent; for on his grounds it is not poſſible to exclude a Popiſh Succeſſor, which yet in three Parliaments hath been almoſt unanimouſly voted in the Houſe of Commons, and is the greateſt intereſt, and ſtrongeſt inclination of the Nation, neither the Prince, nor any of the Princeſſes have Children, will not the King of *Spain*, and the Duke of *Savoy* have the ſame reaſons for them, as the Prince of *Orange*? But there is yet a nearer and greater danger, if the Crown be devolved upon the neareſt of the late King's Blood, when he was excluded, ſhall we entail a War againſt the Nation, on pretext of the Title of the pretended Prince of *Wales*, who being now carried into *France*, before the lineaments of his Face be fixed, the moſt likely Child of that Age,

tho'

tho' of a Peaſant or Foot man, may inavoidably be ſuppoſed as King of *England*, and ſo give a colourable pretence for the Popiſh Princes, to endeavour to over-turn Religion & Liberty; therefore there can be no ſecurity, unleſs the original Contract between the King and People be declared to be abſolutely broken, as to all the Royal Race, and that thereby there is place for Election.

CIVICUS.] Now *Demas* hath ſhot the laſt bolt, that his piercing Wit, and working Head can invent; and if I can ſatifie theſe inconveniences, I hope, both he and *Aulicus*, and all other will reſt content: For the firſt, then I have already told *Demas*, that this Kingdom is not an abſolute or arbitrary Monarchy, but a legal and regulated Monarchy, to be adminiſtrated by Law, and therefore the late King hath excluded himſelf, and is exauctorated, chiefly becauſe he would not own and govern this Kingdom by its proper Conſtitution, but would aſſume an abſolute and arbitrary Power, by which he might govern at his pleaſure, diſpenſing with all Laws, made, or that could be made; Is there then any doubt, that Laws may be made, and are made concerning Religion, and the Worſhip of God, both declaratory, in ſo far as is evident by the Light and Law of Nature, or by Revelation, as to the Divine Inſtitutions of God's Worſhip, being known and acknowledged by the Subjects of this Kingdom, who are wholly Chriſtians, and eſpecially in theſe things which are acknowledged by all National Chriſtian Churches, as neceſſary to Salvation; if then a Law be made, that all who ſhall ſucceed in this Crown, ſhall before they enter upon their Government, and again at their Coronation, ſwear, that they acknowledge the Proteſtant Religion as it is declared, by ſuch a confeſſion, to be the true Religion; and that the Doctrines of the *Roman Church*, wherein they differ from the ſame, or from the general Doctrine

of

of the Christian National Churches, is false and pernicious, and shall maintain the former, and oppose the later Profession; will not this Law oblige all the Successors of the Crown, seeing the Constitution is legal, there can be no Law so important as this: And if it be consented to by this Convention, representing the People, and established by the King, and both Houses in the next Parliament, it will become a Fundamental Law, and a part of the rectoral Contract between the King and this People, which a dessembling King, and a seduced, or packed Parliament can never alter, without the free consent of the Body Politick, convened collectively, or by representation, after communication of the reasons of all which the Members please to promise, but if the whole, or major part of the Nation be perverted, I know not what security is possible in that case.

As to the hazards that may be from the pretended Prince of *Wales*, they will be nothing lessened, but increased, by laying this ground of the Settlement of the Nation, that the violation or abdication of the Constitution of a Kingdom, doth not only exauctorate that person, and all coming of him thereafter, but doth exclude the whole Royal Race; this cannot but displease, and might readily ingage all the Successive Monarchs in *Christendom* (being deeply concerned in such a Preparative) against the Settlement of this Nation: All such Monarchs being equally concerned, whether Popish or Protestant; and the Popish Princes and States will have the better ground, under that pretence, to suppress the Protestant Religion here.

There is no need to run to that ground, to prevent the pretences from that Child, which may be far better cleared upon other grounds, more to the satisfaction of the Nation, and of the World, for these reasons:

First, Albeit it be a presumption acknowledged in Law,

Pater eſt quem juſta Matrimonia monſtrant, and more when both the Parents acknowledge the Child: It's alſo a ſtrong preſumption, that the King would not cut off his Daughters, and all the Royal Race, by a ſuppoſitious Child, yet theſe preſumptions may be excluded by ſtronger evidence. I do not believe that tho' the King has adventured, and in the event loſt three Kingdoms, for Popery, that he deſigned to cut of the Right of all his Race, by a ſuppoſititious Child; but the invention of the Jeſuits, to whom he was addicted, could make a finer contrivance to this effect; they found that the King was a zealous *Roman Catholick*; yet the People did not come over to him, as they did to *Q. Mary*, and the main reaſon they conceived to be, that the King being old, and not of the firmeſt health, the People ſeeing zealous Proteſtants to ſucceed, they thought it a folly, and a great danger to change their Profeſſion, for which they might be ruined in the next Raign; but if there were a view of a long continuance of a Popiſh Soveraign Power, theſe who had no better principle of their Religion, then Cuſtom or Education, would eaſily be brought over by favour or threats; and that it was a *Pia Fraus*, to give it out that the Queen was with Child, and her Belly might appear to be raiſed as her courſe required: It is known that the Jeſuits and Prieſts have been ſo earneſt with our *Lady of Loretto*, and had bribed her with a coſtly Angel of Gold, that they profeſſed themſelves aſſured that ſhe would ſend a Son, to whom the Queen, and other Popiſh Princes might be made Tutors: But when the bulk of the Nation were gained by that means, the counterfeit Son might be put out of the way. Thô the preſumption of *Filiation* from *Mariage*, be ſufficient, where there is no doubt in the contary, yet the *Romans* had a Law *de Ventere inſpiciendo*, even as to private rights, if a *Wife* came to appear with *child* after her *Husband's* death; there is much more reaſon to be cautious where there was any doubt of the *Heir of three Kingdoms*.

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Conſider then the contrary Evidences againſt this Child, the Evidences in every caſe can only be ſuch, as that caſe can admit, and there can be no more evidence in the caſe of ſuppoſitation than are in this caſe, the *fama clamoſa* ran all over Chriſtendom, and was commonly believed in theſe Nations of a deſigned ſuppoſitation, which was certainly known to the King and Queen, which they did endeavour to obviate by ſtrong Aſſeverations, and by the Queens Tears, which might as well be for fear of diſcovering ſuch a Cheat, as for natural Affection, tho' it be difficult to prove ſuppoſitation, yet it was moſt eaſie to prove the contrary, for if the Queen had ſprung Milk out of her Breaſts, before or after the pretended Birth, or if ſhe had been laid by two famous Proteſtant Phyſicians, by whom the coming of the Birth out of her Womb had been felt, or if it had been felt by two noble Proteſtant Ladies, neither of which would have encroached upon the Queens modeſty, all ſuſpition would have been defeated, but no ſuch thing was done; it is a ſure evidence of a contrivance, when endeavours are uſed to colour it by inſufficient proof, which clearly evinces, that better could not be had nor uſed. Many Witneſſes were adduced to prove the truth of this Birth, but they were not adduced in a Judicature that could determine the Queſtion, nor were they interrogate by interrogatures of Parties intereſted, nor by a Judge, and ſo might expreſs every circumſtance that made for the adducer, and ſuppreſs all that made againſt him; if they had been examined in a free Parliament, it had been to ſome purpoſe, but by their depoſition, they did only render themſelves ſuſpect and inhabile witneſſes, for having expreſſed that which might infer they believed the truth of the fact, they would not be ingenious in an after-examination in expreſſing the truth of that which they had before ſuppreſt, leſt they ſhould fall in the infamy of falſe witneſſes; but the only witneſſes that were within the Curtains, to wit, the Midwife, and her Mate, are withdrawn, and cannot be found to be examined. The Midwife's teſtimony imports only, that ſhe took the Child from the Queen, this might as well be underſtood of taking the Child from the Queen's Boſom, as her Womb; and others ſay, they ſaw the Child new-born, unwaſhen, brought out of the Queen's Bed, which infers nothing as to the truth of the Birth, for the true Mother might have been in the next room; others ſay, they ſaw the Queen's Smock wet with Milk, that